



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,708	01/20/2006	Claiton Emilio Do Amaral	21517/0203883-US0	5548
7278	7590	08/18/2009		
DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770			EXAMINER TRAN, HANH VAN	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 08/18/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,708

Applicant(s)

AMARAL ET AL.

Examiner

HANH V. TRAN

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 4/17/2009.

Election/Restrictions

2. Claim 4 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/17/2009.

Claim Objections

3. Claim 2 is objected to because of the following informalities: line 3, "upwardly projecting upwardly" should be either "upwardly projecting" or "projecting upwardly". Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Line 3, the "front" stop device lacks antecedent basis.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3637

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-3, 5-8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,090,787 to Haley.

Haley discloses a mounting arrangement comprising all the elements recited in the above listed claims including a compartment having two lateral walls 10, each carrying at least one rail 30 on which is slidingly seated an adjacent lateral portion 20 of an internal dividing element to be horizontally displaced between a first position, in which it is retracted inside the compartment, and second positions in which it is partially displaced forwardly and outwardly from the compartment, wherein each rail includes a flat horizontal upper track and a lower track, the lower track being parallel to the upper track, the upper track including a stop device 52 (Fig 4(b)) and a longitudinal guide, each lateral portion of the internal dividing element including a seating surface to be slidingly seated on the upper track of the respective rail and a retaining surface disposed on the upper track and carries a lock 32, which in an operative position, is slidingly seated against the upper track of the same rail, in order to abut said stop device to define a second maximum displacement position of the internal dividing

Art Unit: 3637

element forwardly and outwardly from the compartment, at least one of the lateral portions of the internal dividing element further including, in distinct regions of the longitudinal extensions of the retaining surface thereof, a guide follower which is slidably fitted in the guide rail of the upper track of the respective rail. The differences being that Haley fails to disclose the stop device provided on the lower track (instead of the upper track), the retaining surface disposed below the lower track (instead of the upper track), the guide follower slidably fitted in the guide rail of the lower track (instead of the upper track), the guide rail being defined by a downwardly opened groove along the whole extension of the lower track (instead of the upper track).

However, it is well known and well within the level of one skill in the art to have the stop device provided on the lower track (instead of the upper track), the retaining surface disposed below the lower track (instead of the upper track), the guide follower slidably fitted in the guide rail of the lower track (instead of the upper track), the guide rail being defined by a downwardly opened groove along the whole extension of the lower track (instead of the upper track), since a mere reversal of the essential working parts of a device involves only routine skill in the art.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haley, as modified, as applied to claim 1 above, and further in view of USP 5,340,209 to Kolbe et al.

Haley, as modified, discloses all the elements as discussed above except for the lock is defined by a portion, cutout in the retaining surface and which is upwardly bent and resiliently downwardly deformed to the inoperative position.

However, Kolbe et al teaches the idea of providing a mounting arrangement having a locking device which includes a bent portion and resiliently deformed to the inoperative position in order to facilitate moving the locking device between locking and unlocking positions. Therefore, it would have been obvious to modify the structure of Haley, as modified, by having the lock being defined by a portion, cutout in the retaining surface and which is upwardly bent and resiliently downwardly deformed to the inoperative position in order to facilitate moving the locking device between locking and unlocking positions, as taught by Kolbe et al, since both teach alternate conventional internal dividing element structure, used for the same intended purpose of providing locking means to an internal dividing element, thereby providing structure as claimed.

Response to Arguments

10. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Merrifield, and Ullman, Jr., both show structures similar to various elements of applicant's disclosure.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3637

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT

August 17, 2009

/Hanh V. Tran/

Primary Examiner, Art Unit 3637